

THE HAPPY SHOPPER

Quarterly Newsletter of the Consumer Goods and Services Ombud
SPECIAL CONSUMER CODE ISSUE APRIL 2015



Over the Finish Line: Code Approved

Rob Davies, the Minister for Trade and Industry, is clearly not a superstitious man. For it was on Friday the 13th March 2015 that he signed the letter approving the Consumer Goods and Services Industry Code of Conduct and accrediting the Consumer Goods and Services Ombud as the official alternative dispute resolution body for the industry. The effective date is 29 April 2015 .

The news of this momentous event was the cause of celebration at the CGSO's offices. Ombudsman Advocate Neville Melville describes the move, two years after the code was first published for public comment, as a tremendous relief. "We will now be able to focus our attention on dispute resolution and business compliance with the Consumer Protection Act." Up to this point the CGSO has operated on a voluntary participation basis.

"The Code has broadened our reach considerably," said Melville. "All businesses that operate as part of the consumer goods and services industry supply chain and are not governed by other regulation must now register with us." While this enlargement of the ambit of the CGSO will bring its own challenges, it will ultimately make it possible to share the financial load of running the office over a broader base.

The Code will be uploaded onto our website once available.

this issue

- Over the Finish Line P.1
- What the Code Says P.2
- Complaint Process P.3
- Who Pays? P.4

ACKNOWLEDGEMENT

The CGSO acknowledges the role of the Consumer Goods Council of South Africa (CGCSA) in gaining the support of other industry players for the Code and steering it through the public consultative process.

CGSO is indebted to CGCSA for having got the ball rolling and for providing seed capital to CGSO until it could become self funding.

We also acknowledge the role of the Ombud Committee in the process, as well as Brendon Fraser's efforts in editing the document and in ensuring that the accreditation process was speeded up

What the Code Says

(Some highlights)

The Code and the CGSO were established to guide Industry as to what is considered the minimum standards of conduct expected when engaging with Consumers and to assist in resolving Disputes that arise between Consumers and Industry in terms of the CPA.

The Code regulates interaction between Participants conducting business within the Industry and the Consumer, and provides for an alternative Dispute resolution mechanism as described in section 82 (6) of the CPA should there be a Dispute between a Participant and Consumers.

The Purpose of the Code is to:

- Raise the standards of good conduct in the Industry without endangering the vitality and growth of business;
- Generate growth in the Industry by increasing the level of certainty for all Participants ;
- Offer guidance to Participants in the Industry as to the implementation of and the compliance with the CPA and what constitutes fair business practices to be followed when operating within the Industry;

- Educate Consumers as to their rights and redress available to them should a Participant breach the CPA or the Code; and
- Provide for a scheme of alternative dispute resolution as described in section 82 (6) of the CPA.

The Participants within the Industry are required to pursue the objectives as set out in section 3 of the CPA, especially to:

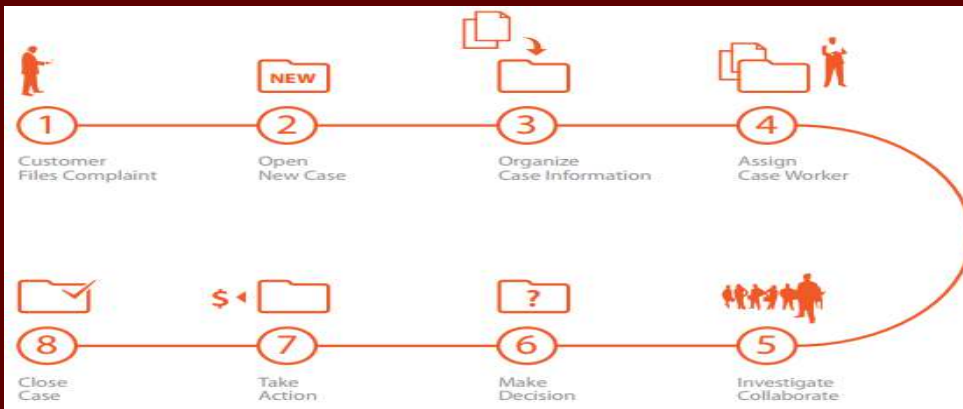
- Reduce and ameliorate any disadvantages experienced by Consumers in accessing the supply of any Goods and Services;
- Promote fair business practices;
- Protect Consumers from:
 - Unconscionable, unfair, unreasonable, unjust or otherwise improper trade practices; and
 - Deceptive, misleading, unfair or fraudulent conduct.
- Provide for a consistent, accessible and efficient system of consensual resolution of Disputes arising from consumer transactions.



YOUR OBLIGATIONS

The Code imposes several obligations upon suppliers. The main ones are listed here:

- To participate in the scheme
- To establish an internal complaints-handling process
- To advise customers that your business is bound by the Code (please obtain a decal to this effect from us)
- To provide details of how complainants may lodge complaints with you
- To provide consumers with the contact details of the Consumer Goods and Services Ombud (consumers who complain should be informed that if they are not satisfied with the outcome, they can contact CGSO)
- To ensure that relevant staff members have suitable working knowledge of Act, Code and CGSO's Procedures.



COMPLAINT PROCESS

Section F of the Code

The process is as follows:

Refer Complaint:

A Complainant may first refer the matter in Dispute to the Participant

Referral to CGSO:

A Complainant who referred a Complaint to the Participant concerned, and who is dissatisfied with the outcome may, if a matter is not resolved by the Participant within **15 Business Days** or such extended period as agreed between the Parties, refer the Complaint to the CGSO.

Initial Assessment of the Complaint:

After receipt, each Complaint shall be initially assessed to ascertain whether it falls within the jurisdiction of the CGSO.

Referral to Participant:

If the Complaint is one that appears to fall within the CGSO's jurisdiction and the Complainant has already taken up the matter with the Participant, the CGSO shall inform the Designated Officer, in writing, that a Complaint has been lodged with the CGSO and that the Participant shall have **15 (fifteen) Business Days** from receipt of the communication to investigate and attempt to resolve the Dispute with the Complainant or to provide the CGSO with its reasons for repudiating the Complaint.

Terminology

Q: What is the Consumer Goods and Services Industry?

"Consumer Goods and Services Industry" means all Participants and/or entities involved in the Supply Chain that provide, market and/or offer to supply Goods and Services to Consumers, unless excluded in terms of clause 4.4 hereof;

4.4 This Code excludes: transaction that are not covered by the CPA and/or that are governed by other public regulation; the automotive industry, Electronic Communication Service as defined in section 1 of the Electronic Communications Act, 2005 (Act No. 36 of 2005) and transactions with organs of state or financial institutions.

THE CRYSTAL BALL

Future developments

The CGSO is building capacity to enable it to assist businesses in meeting their obligation to ensure that relevant staff members have suitable working knowledge of the Consumer Protection Act, the Code and CGSO's Procedures. We are looking into using e-learning platforms to disseminate the information.

COMPLIANCE

Enforcement

A failure to comply with the Code amounts to a contravention of section 82(8) of the Consumer Protection Act.

The NCC and the Tribunal may consider any failure to cooperate with the CGSO when issuing a compliance notice or proposing or imposing an administrative fine.



Who pays?

The cost of running CGSO

Using the CGSO's services is free to consumers. Likewise, those businesses with an annual turnover of less than R 1 million do not have to pay for complaints dealt with by CGSO. Apart from being an aspect of enterprise development, not charging SMMEs makes business sense as the cost of collection of fees would be disproportionately high.

Instead medium to large businesses bear the cost of running CGSO in proportion to their respective sizes based on turnover. This start-up model will be reviewed by CGSO's Board of Directors in time.

Whatever model is ultimately adopted will need to be sustainable, easy to understand and calculate, and inexpensive and easy to collect. Please share your thoughts with us.

The Tail End

"He who avoids complaints invites happiness."

Abu Bakr



Possible Outcomes

Resolution by CGSO

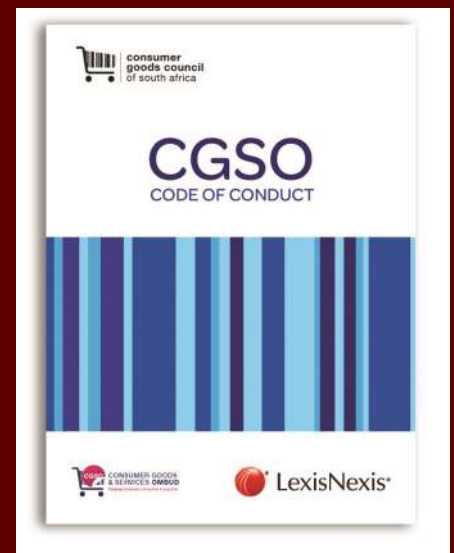
The beauty of the ombudsman process is its flexibility. Another feature is that it focuses on restoring business relationships rather than on public shaming, guilt findings and penalties.

The range of possible outcomes includes:

- Resolved assistance provided;
- Resolved not upheld;
- Resolved upheld partially;
- Resolved upheld fully;
- Dismissed no cooperation.

COMING SOON:

Print Version of the Code



CONSUMER GOODS AND
SERVICES OMBUDSMAN

www.cgso.org.za